



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

#8  
Election  
11/7/03  
**RECEIVED**

In re Patent Application of

MAERTENS et al.

Atty. Ref.: 2752-56

Serial No. 09/973,025

Group: 1648

Filed: October 10, 2001

Examiner: Li

DEC 30 2002  
TECH CENTER 1600/2900

For: PURIFIED HEPATITIS C VIRUS ENVELOPE PROTEINS FOR DIAGNOSTIC  
AND THERAPEUTIC USE

\* \* \* \* \*

December 23, 2002

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

**RESPONSE**

Responsive to the Official Action of October 22, 2002, the applicants request withdrawal of the restriction requirement as a search of all the claimed subject matter is, with all due respect, not believed to place an undue burden on the Examiner. In the event the Examiner maintains the restriction requirement, a new Office Action clearly identifying the indicated Groups of subject matter to be restricted, is requested.

Specifically, the Examiner's restriction requirement of October 22, 2002, is, with due respect, confusing in its recitation of the plural "Groups" in referring to, separately, Groups I, II and III on pages 2 and 3 wherein further election is required. See, "If either of in Groups I [II or III] is elected, applicants are required...".

Moreover, the subgroups (1) - (12) of Group I do not appear to accurately reflect or represent the subject matter of claim 54, which appears to be the basis by which the Examiner made the further restriction requirement. Clarification is requested in the event the restriction requirement is maintained. The applicants respectively submit a new restriction requirement should be mailed wherein all the claimed subject matter is reflected.

Additionally, the applicants believe the Examiner's statement that nucleotide sequences are being used as "antigen" may lead to confusion in the record and a corrected restriction requirement or new Action, in place of the Office Action of October 22, 2002, with a new date for responding set from the mail date of the new Action, is requested.

The Examiner's statement in Group I, subgroup (1) that the nucleotide sequence used as antigen (sic.) can be an E1 or E2 sequence "(a) and (e)" is assumed by the applicants to be a reference to (b) and (e), given the Examiner's reference to positions 250-400 of E1. Clarification is requested in a new Office Action.

To the best of the applicants ability to interpret the Examiner's restriction requirement, the applicants elect, with traverse and for the purposes of being responsive only, Group I, subgroup (1). The Office Action does not appear to require a species election in the event the subject matter of Group I is elected. The Examiner is requested to advise the undersigned however if otherwise and provide further time to respond.

A new Office Action is requested, for the reasons noted above, which would allow the applicants to respond, with a date for response set from the mailing of the new Office Action.

The Examiner is requested to contact the undersigned if anything further is required.

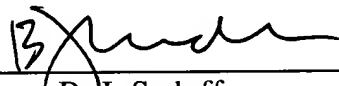
Return of an initialed copy of the PTO-1449 Form filed October 30, 2002 and a copy of the PTO-1449 Form filed October 10, 2001 pursuant to MPEP §609, are requested.

Approval of the formal drawings filed October 10, 2001, is requested.

Acknowledgement of receipt of the certified copy of the priority document filed March 11, 1996 in prior application number 08/612,973, is requested in the Examiner's next Communication.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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